

1 *Senate* BILL NO. *251*
 2 INTRODUCED BY *Dumble*
 3 *regent by Dept of Justice*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 5 31-105, R.C.M. 1947, REDEFINING THE RANK STRUCTURE OF THE
 6 MONTANA HIGHWAY PATROL."
 7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 9 Section 1. Section 31-105, R.C.M. 1947, is amended to
 10 read as follows:
 11 "31-105. Appointment and promotion of officers --
 12 replacements and additions -- reserve patrolmen -- salaries
 13 --qualifications -- probationary training -- tenure --
 14 disciplinary action -- hearing -- appeal. (1) Appointments
 15 and promotions. (a) The board shall designate supervisory
 16 personnel including, but not limited to, captains,
 17 lieutenants, sergeants, and patrolmen in such numbers as the
 18 board may deem necessary, but within the limits of the
 19 legislative appropriation made available for such purposes.
 20 (b) Replacements and additions to the highway patrol
 21 force shall be chosen in equal numbers from the twelve (12)
 22 highway districts, provided however, that if sufficient
 23 qualified applications are not received from any one
 24 district that the board may in its discretion substitute
 25 other qualified applicants from any other districts.

1 (c) Patrolmen filling vacancies caused by the
 2 incumbents' entrance into the armed forces of the United
 3 States, shall on the return of the incumbents be placed in
 4 the patrol reserve, without pay; otherwise they shall hold
 5 their probationary or permanent appointments while there are
 6 sufficient operating funds. Reserve patrolmen shall then be
 7 used for future replacements in the permanent patrol.

8 (d) ~~Captains, lieutenants and sergeants~~ Supervisory
 9 personnel shall be selected from the patrolmen by the chief,
 10 subject to the approval of the highway patrol board. The
 11 duties and jurisdiction of the ~~captains, lieutenants and~~
 12 ~~sergeants~~ supervisory personnel shall be outlined, defined
 13 and under the control of the chief subject to the approval
 14 of the Montana highway patrol board.

15 (2) Salaries. (a) The Montana highway patrol board
 16 shall, within the limits of appropriations made available
 17 for such purpose, prepare a schedule of compensation and
 18 expenses which shall be uniform within all grades and submit
 19 it to the state board of examiners for their approval.

20 (b) The base salary of ~~the captains, lieutenants,~~
 21 ~~sergeants~~ supervisory personnel and patrolmen shall be fixed
 22 by the board, with the approval of the state board of
 23 examiners. In the event that a probationary patrolman is
 24 appointed permanently, he shall, at the time of such
 25 appointment, receive the base salary of patrolmen. These

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1 salaries shall be increased one per cent (1%) per year for
2 each additional year of service.

3 (3) Qualifications. (a) Patrolmen shall possess the
4 following qualifications:

5 (i) Sound and active physical and mental condition.

6 (ii) Good moral character.

7 (iii) Resident of Montana for at least one (1) year
8 immediately prior to appointment.

9 (iv) Pass a satisfactory test in the operation of
10 automobiles.

11 (v) Citizens of the United States and state of
12 Montana.

13 (4) Probationary training. (a) All new patrolmen shall
14 be placed under probationary training and service for a
15 period of six (6) months to one (1) year, during which time
16 the highway patrol chief must recommend to the highway
17 patrol board for permanent appointments; otherwise the
18 probationary patrolmen will automatically be discharged.

19 (b) All newly appointed ~~captains,--lieutenants--and~~
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21 probationary training and service for a period of six (6)
22 months to one (1) year, during which time the highway patrol
23 chief must recommend to the highway patrol board for
24 permanent appointments; otherwise the ~~captains,--lieutenants~~
25 ~~and--sergeants~~ supervisory personnel will automatically

1 revert to their previous ranks without prejudice.

2 (5) Tenure of office. Every person employed or
3 appointed and designated as a chief, captain, lieutenant,
4 sergeant, ~~or~~ patrolman, or any other rank under and pursuant
5 to the provisions of this act, except as provided in
6 subsection (4) above, shall continue in service and hold his
7 position without demotion until suspended, demoted, or
8 discharged in the manner hereinafter provided, for one (1)
9 or more of the causes specified in the following
10 subsection.

11 (6) Suspension, demotion or discharge. Cause for
12 suspension, demotion or discharge will be:

13 (a) Conviction of any crime involving moral turpitude
14 in any court of competent jurisdiction subsequent to the
15 commencement of such employment.

16 (b) Gross neglect of duty or willful violation or
17 disobedience of orders or regulations.

18 (c) Loitering about or entering places of ill fame,
19 ill repute, or where gambling is known to be conducted or to
20 be in progress, except in the immediate discharge of duty.

21 (d) Conduct unbecoming an officer.

22 (e) Drinking intoxicating liquor while using
23 state-owned cars or in uniform, or being intoxicated in a
24 public place.

25 (f) Sleeping while on duty.

1 (g) Incapacity, or partial incapacity, materially
2 affecting his ability to perform his official duties.

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4 (i) Active participation in any political campaign by
5 supporting or opposing, directly or indirectly, any
6 political candidate, or contributing financially or
7 otherwise, directly or indirectly, to the success or defeat
8 of any political party or candidate.

9 (j) Willful disobedience of rules and regulations
10 adopted by the board, governing the conduct and discipline
11 of members of the patrol.

12 (7) Method of preferring charges. (a) The charge or
13 charges against any patrolman shall be made in writing and
14 shall be signed and sworn to by the person making the charge
15 or charges.

16 (b) The written charge or charges shall be filed with
17 the chief of the Montana highway patrol.

18 (c) Any charge or charges which could result in the
19 suspension or discharge of the chief ~~or--a--captain~~ or
20 supervisory personnel with the rank of captain or above
21 shall be filed directly with the highway patrol board.

22 (d) When charges are filed and the chief believes that
23 such charge or charges constitute grounds for suspension,
24 demotion or discharge, he shall order a hearing to be had
25 thereon before the highway patrol board and fix a time for

1 such hearing.

2 (e) When charges are filed and the chief believes such
3 charge or charges do not constitute grounds for suspension,
4 demotion or discharge he shall dismiss such charges.

5 (f) The highway patrol board shall have the authority
6 to order the chief to file charges with the board when the
7 chief in his judgment does not believe the charge or charges
8 warrant a hearing.

9 (8) Authority to suspend, demote or discharge. (a)
10 When the highway patrol chief has cause to believe that any
11 member of the highway patrol has violated any of the
12 hereinabove grounds for suspension, demotion or discharge,
13 or his conduct has warranted reprimanding, he may, with the
14 approval of the Montana highway patrol board, suspend,
15 demote or reprimand the member.

16 (b) If the chief orders a hearing he may suspend such
17 patrolman pending the rendition of the decision made in such
18 case.

19 (9) Length of suspension--demotion pay status. (a) Any
20 member under suspension shall be on leave without pay and
21 for a period not to exceed thirty (30) days in time.

22 (b) In cases of disciplinary action resulting in
23 demotion, the member shall receive the pay of the rank to
24 which he is demoted.

25 (10) Notification of hearing. (a) The chief shall, at

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1 least ten (10) days before the time appointed for a hearing,
 2 serve written notice specifying the charge or charges filed
 3 and stating the name of the person or persons making the
 4 charge or charges, on the accused patrolman personally, if
 5 his whereabouts is known, in the state of Montana.

6 (b) If at the time, the whereabouts of the accused
 7 patrolman is unknown, or if he be outside of the state of
 8 Montana, service may be made upon him by mailing the written
 9 notice to him at his last known place of residence in
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 12 authority to hear such charge or charges and render a
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 16 to examine them under oath and to require the production of
 17 books, papers, and other evidence at such hearing and for
 18 that purpose issue subpoenas and cause the same to be served
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 21 confronted with the witnesses against him and have an
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1 days after such hearing render its decision in writing and
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9 (b) If after the hearing, the highway patrol board
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 13 salary withheld pending the determination of the charge or
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15 (13) Right to appeal. (a) Any patrolman who is
 16 suspended, demoted, or discharged may have a right of appeal
 17 to the district court of Lewis and Clark county.

18 (b) Such appeal must be made within ten (10) days
 19 after such decision or determination of the highway patrol
 20 board.

21 (c) The district court shall review such decision or
 22 determination in a summary manner and shall render its
 23 decision upon such appeal within ninety (90) days from the
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1 patrol board shall be finally reversed or modified by the
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Approved by Committee
on Highways & Transportation

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8 SECTION 2. THIS ACT IS EFFECTIVE JANUARY 1, 1975.

-End-

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 24 such hearing testimony in his own behalf and shall be
 25 entitled to be represented by counsel at such hearing.

1 (d) The highway patrol board shall within fifteen (15)
 2 days after such hearing render its decision in writing and
 3 file same in its office with the chief and with the
 4 patrolman accused also.

5 (12) Disciplinary action. (a) If, after a hearing, the
 6 highway patrol board finds that any such charge or charges,
 7 made against the patrolman be true, it may punish the
 8 offending party by reprimand, suspension without pay,
 9 demotion, or discharge.

10 (b) If after the hearing, the highway patrol board
 11 finds that the charge or charges made against the patrolman
 12 not be true, the board shall reinstate the accused patrolman
 13 to his position and rank and shall order the payment of any
 14 salary withheld pending the determination of the charge or
 15 charges.

16 (13) Right to appeal. (a) Any patrolman who is
 17 suspended, demoted, or discharged may have a right of appeal
 18 to the district court of Lewis and Clark county.

19 (b) Such appeal must be made within ten (10) days
 20 after such decision or determination of the highway patrol
 21 board.

22 (c) The district court shall review such decision or
 23 determination in a summary manner and shall render its
 24 decision upon such appeal within ninety (90) days from the
 25 filing of such appeal in said court.

1 (d) If the decision or determination of the highway
2 patrol board shall be finally reversed or modified by the
3 district court, the accused patrolman shall be reinstated in
4 his position and the highway patrol board shall pay to the
5 said patrolman any salary or wages withheld from him pending
6 the determination of the charge or charges, or as may be
7 directed by the court."

8 SECTION 2. THIS ACT IS EFFECTIVE JANUARY 1, 1975.

-End-

1 SENATE BILL NO. 251
 2 INTRODUCED BY DUNKLE
 3 (BY REQUEST OF DEPARTMENT OF JUSTICE)
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 6 31-105, R.C.M. 1947, REDEFINING THE RANK STRUCTURE OF THE
 7 MONTANA HIGHWAY PATROL AND UPDATING ARCHAIC PROVISIONS; AND
 8 PROVIDING FOR AN EFFECTIVE DATE."
 9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. Section 31-105, R.C.M. 1947, is amended to
 12 read as follows:
 13 "31-105. Appointment and promotion of officers --
 14 replacements and additions -- reserve patrolmen -- salaries
 15 -- qualifications -- probationary training -- tenure --
 16 disciplinary action -- hearing -- appeal. (1) Appointments
 17 and promotions. (a) The ~~board~~ DIVISION OF MOTOR VEHICLES,
 18 DEPARTMENT OF JUSTICE shall designate supervisory personnel
 19 including, but not limited to, captains, lieutenants,
 20 sergeants, and patrolmen in such numbers as ~~the board may~~
 21 ~~deem~~ necessary, but within the limits of the legislative
 22 appropriation made available for such purposes.
 23 (b) Replacements and additions to the highway patrol
 24 force shall be chosen in equal numbers from the twelve (12)
 25 highway districts, provided however, that if sufficient

1 qualified applications are not received from any one
 2 district that the ~~board~~ DIVISION may in its discretion
 3 substitute other qualified applicants from any other
 4 districts.
 5 (c) Patrolmen filling vacancies caused by the
 6 incumbents' entrance into the armed forces of the United
 7 States, shall on the return of the incumbents be placed in
 8 the patrol reserve, without pay; otherwise they shall hold
 9 their probationary or permanent appointments while there are
 10 sufficient operating funds. Reserve patrolmen shall then be
 11 used for future replacements in the permanent patrol.
 12 (d) ~~Captains, lieutenants, and sergeants~~ Supervisory
 13 personnel shall be selected from the patrolmen by the chief,
 14 subject to the approval of the ~~highway patrol board~~
 15 DIVISION. The duties and jurisdiction of the ~~captains,~~
 16 ~~lieutenants, and sergeants~~ supervisory personnel shall be
 17 outlined, defined and under the control of the chief subject
 18 to the approval of the ~~Montana highway patrol board~~
 19 DIVISION.
 20 (2) Salaries. (a) The ~~Montana highway patrol board~~
 21 DIVISION shall, within the limits of appropriations made
 22 available for such purpose, prepare a schedule of
 23 compensation and expenses which shall be uniform within all
 24 grades and submit it to the state board of examiners for
 25 their approval.

1 (b) The base salary of ~~the--captains--lieutenants,~~
 2 sergeants supervisory personnel and patrolmen shall be fixed
 3 by the ~~board~~ DIVISION, with the approval of the state board
 4 of examiners. In the event that a probationary patrolman is
 5 appointed permanently, he shall, at the time of such
 6 appointment, receive the base salary of patrolmen. ~~These~~
 7 ~~salaries--shall--be--increased--one--per--cent--(1%)--per--year--for~~
 8 ~~each--additional--year--of--service.~~

9 (3) Qualifications. (a) Patrolmen shall possess the
 10 following qualifications:

- 11 (i) Sound and active physical and mental condition.
 12 (ii) Good moral character.
 13 (iii) Resident of Montana for at least one (1) year
 14 immediately prior to appointment.
 15 (iv) Pass a satisfactory test in the operation of
 16 automobiles.
 17 (v) Citizens of the United States and state of
 18 Montana.

19 (4) Probationary training. (a) All new patrolmen shall
 20 be placed under probationary training and service for a
 21 period of six (6) months to one (1) year, during which time
 22 the highway patrol chief must recommend to the ~~highway~~
 23 ~~patrol--board~~ DIVISION for permanent appointments; otherwise
 24 the probationary patrolmen will automatically be discharged.

25 (b) All newly appointed ~~captains--lieutenants--and~~

1 sergeants supervisory personnel shall be placed under
 2 probationary training and service for a period of six (6)
 3 months to one (1) year, during which time the highway patrol
 4 chief must recommend to the ~~highway-patrol-board~~ DIVISION
 5 for permanent appointments; otherwise the ~~captains,~~
 6 ~~lieutenants---and---sergeants~~ sergeants supervisory personnel will
 7 automatically revert to their previous ranks without
 8 prejudice.

9 (5) Tenure of office. Every person employed or
 10 appointed and designated as a chief, captain, lieutenant,
 11 sergeant, ~~or~~ patrolman, or any other rank under and pursuant
 12 to the provisions of this act, except as provided in
 13 subsection (4) above, shall continue in service and hold his
 14 position without demotion until suspended, demoted, or
 15 discharged in the manner hereinafter provided, for one (1)
 16 or more of the causes specified in the following subsection.

17 (6) Suspension, demotion or discharge. Cause for
 18 suspension, demotion or discharge will be:

19 (a) Conviction of any crime involving moral turpitude
 20 in any court of competent jurisdiction subsequent to the
 21 commencement of such employment.

22 (b) Gross neglect of duty or willful violation or
 23 disobedience of orders or regulations.

24 (c) Loitering about or entering places of ill fame,
 25 ill repute, or where gambling is known to be conducted or to

1 be in progress, except in the immediate discharge of duty.

2 (d) Conduct unbecoming an officer.

3 (e) Drinking intoxicating liquor while using
4 state-owned cars or in uniform, or being intoxicated in a
5 public place.

6 (f) Sleeping while on duty.

7 (g) Incapacity, or partial incapacity, materially
8 affecting his ability to perform his official duties.

9 (h) Gross inefficiency in performing duties.

10 (i) Active participation in any political campaign by
11 supporting or opposing, directly or indirectly, any
12 political candidate, or contributing financially or
13 otherwise, directly or indirectly, to the success or defeat
14 of any political party or candidate.

15 (j) Willful disobedience of rules and regulations
16 adopted by the ~~board~~ DIVISION, governing the conduct and
17 discipline of members of the patrol.

18 (7) Method of preferring charges. (a) The charge or
19 charges against any patrolman shall be made in writing and
20 shall be signed and sworn to by the person making the charge
21 or charges.

22 (b) The written charge or charges shall be filed with
23 the chief of the Montana highway patrol.

24 (c) Any charge or charges which could result in the
25 suspension or discharge of the chief ~~or--a--captain~~ or

1 supervisory personnel with the rank of captain or above
2 shall be filed directly with the ~~highway--patrol--board~~
3 DIVISION.

4 (d) When charges are filed and the chief believes that
5 such charge or charges constitute grounds for suspension,
6 demotion or discharge, he shall order a hearing to be had
7 thereon before the ~~highway-patrol-board~~ DIVISION and fix a
8 time for such hearing.

9 (e) When charges are filed and the chief believes such
10 charge or charges do not constitute grounds for suspension,
11 demotion or discharge he shall dismiss such charges.

12 (f) The ~~highway--patrol-board~~ DIVISION shall have the
13 authority to order the chief to file charges with the ~~board~~
14 DIVISION when the chief in his judgment does not believe the
15 charge or charges warrant a hearing.

16 (8) Authority to suspend, demote or discharge. (a)
17 When the highway patrol chief has cause to believe that any
18 member of the highway patrol has violated any of the
19 hereinabove grounds for suspension, demotion or discharge,
20 or his conduct has warranted reprimanding, he may, with the
21 approval of the ~~Montana--highway--patrol--board~~ DIVISION,
22 suspend, demote or reprimand the member.

23 (b) If the chief orders a hearing he may suspend such
24 patrolman pending the rendition of the decision made in such
25 case.

1 (9) Length of suspension--demotion pay status. (a) Any
2 member under suspension shall be on leave without pay and
3 for a period not to exceed thirty (30) days in time.

4 (b) In cases of disciplinary action resulting in
5 demotion, the member shall receive the pay of the rank to
6 which he is demoted.

7 (10) Notification of hearing. (a) The chief shall, at
8 least ten (10) days before the time appointed for a hearing,
9 serve written notice specifying the charge or charges filed
10 and stating the name of the person or persons making the
11 charge or charges, on the accused patrolman personally, if
12 his whereabouts is known, in the state of Montana.

13 (b) If at the time, the whereabouts of the accused
14 patrolman is unknown, or if he be outside of the state of
15 Montana, service may be made upon him by mailing the written
16 notice to him at his last known place of residence in
17 Montana.

18 (11) Hearing. (a) The ~~highway--patrol--board~~ DIVISION
19 shall be the authority to hear such charge or charges and
20 render a decision and appropriate order.

21 (b) The ~~highway--patrol--board~~ DIVISION shall have the
22 power to compel the attendance of witnesses at any such
23 hearing and to examine them under oath and to require the
24 production of books, papers, and other evidence at such
25 hearing and for that purpose issue subpoenas and cause the

1 same to be served and executed in any part of the state.

2 (c) The accused patrolman shall be entitled to be
3 confronted with the witnesses against him and have an
4 opportunity to cross-examine the same and to introduce at
5 such hearing testimony in his own behalf and shall be
6 entitled to be represented by counsel at such hearing.

7 (d) The ~~highway--patrol--board~~ DIVISION shall within
8 fifteen (15) days after such hearing render its decision in
9 writing and file same in its office with the chief and with
10 the patrolman accused also.

11 (12) Disciplinary action. (a) If, after a hearing, the
12 ~~highway--patrol--board~~ DIVISION finds that any such charge or
13 charges, made against the patrolman be true, it may punish
14 the offending party by reprimand, suspension without pay,
15 demotion, or discharge.

16 (b) If after the hearing, the ~~highway--patrol--board~~
17 DIVISION finds that the charge or charges made against the
18 patrolman not be true, the ~~board~~ DIVISION shall reinstate
19 the accused patrolman to his position and rank and shall
20 order the payment of any salary withheld pending the
21 determination of the charge or charges.

22 (13) Right to appeal. (a) Any patrolman who is
23 suspended, demoted, or discharged may have a right of appeal
24 to the district court of Lewis and Clark county.

25 (b) Such appeal must be made within ten (10) days

1 after such decision or determination of the ~~highway-patrol~~
2 ~~board~~ DIVISION.

3 (c) The district court shall review such decision or
4 determination in a summary manner and shall render its
5 decision upon such appeal within ninety (90) days from the
6 filing of such appeal in said court.

7 (d) If the decision or determination of the ~~highway~~
8 ~~patrol-board~~ DIVISION shall be finally reversed or modified
9 by the district court, the accused patrolman shall be
10 reinstated in his position and the ~~highway--patrol--board~~
11 DIVISION shall pay to the said patrolman any salary or wages
12 withheld from him pending the determination of the charge or
13 charges, or as may be directed by the court."

14 SECTION 2. THIS ACT IS EFFECTIVE JANUARY 1, 1975.

-End-